



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 03/06/01

AGENDA ITEM 3

WORK SESSION ITEM

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Adoption of Disadvantaged Business Enterprise Program for Federally Funded Public Works Contracts and Approval of 2000/01 Annual Goal

RECOMMENDATION:

It is recommended that the City Council approve the attached resolution that adopts the new Disadvantaged Business Enterprise Program for federally funded public works contracts and approves the 2000/01 annual goal.

BACKGROUND:

On July 12, 1983, the City Council adopted a policy statement expressing the City's commitment to the Minority Business Program for federal aid projects. On December 1, 1987, the City Council adopted an amendment to the policy statement, which established a single Disadvantaged Business Enterprise (DBE) goal for federally funded contracts that included both minority and women-owned businesses.

New federal regulations governing the DBE program require that each City adopt a new DBE Program and 2000/01 annual goal based on new guidelines. The new guidelines include a two-step process for goal setting, which is intended to provide maximum flexibility for recipients while ensuring that goals are based on the availability of ready, willing, and able DBEs to participate in federally funded contracts in each recipient's market area. Each City establishes its overall annual DBE goal and methodology based on Caltrans guidelines.

First, staff estimated the federally funded project costs by work category for the year 2000/01; anticipated projects include the three phases of the Arterial Pavement Rehabilitation, the Whipple and Clawiter Corridor projects, the Industrial Parkway SW Widening, and the Oliver/Tennyson Traffic Signal. Then, the relative availability of DBE firms was estimated based on all bidders' information sheets for the federally funded projects in the fiscal years 1997/00, resulting in a calculated base DBE goal of 13.7 percent for the year 2000/01. Next, staff also reviewed the actual goal attainment by the low bidders on federally funded projects in the years 1997/00 and determined that, based on this criterion, the expected DBE participation would be 11.7 percent. After thoroughly reviewing all the information, staff believes that it would be reasonable to assume that a DBE participation of 14 percent could be achieved on the 2000/01 federally funded projects.

In conformance with the new guidelines' two-step process, the program projects meeting 12 percent of the goal through race-conscious methods, including establishing specific goals on


contracts. The remaining two percent of the goal is to be accomplished using race-neutral methods, including making efforts to assure that the bidding and contract requirements facilitate participation by DBEs and other small businesses, encouraging prime contractors to subcontract portions of the work, and providing technical assistance and other support services to facilitate consideration of DBEs and other small businesses. Caltrans has reviewed and concurred with staff's methodology and proposed goals. Goals will be reviewed annually, based on future project and past goal attainment.

The policy of the City, as stated in the draft Disadvantaged Business Enterprise (DBE) program, is to ensure that DBEs have an equal opportunity to receive and participate in federally funded projects and:

- To ensure nondiscrimination in the award and administration of Department of Transportation (DOT)-assisted contracts;
- To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
- To ensure that only firms that fully meet federal eligibility standards are permitted to participate as DBEs;
- To help remove barriers to the participation of DBEs; and
- To assist in the development of firms that can compete successfully in the market place outside the DBE Program.

A public notice stating the annual goal and these policies (and inviting comments) was posted January 17, 2001, published in the Daily Review January 23, 2001, and distributed to DBE and WBE contractors' clearinghouses. No specific comments have been received. A copy of the entire draft DBE program is available for review in the City Clerk's office.


Prepared by:


Robert A. Bauman, Deputy Director of Public Works

Recommended by:


Dennis L. Butler, Director of Public Works

Approved by:


Jesús Armas, City Manager

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

RESOLUTION ADOPTING THE DISADVANTAGED BUSINESS ENTERPRISE PROGRAM FOR FEDERALLY FUNDED PUBLIC WORKS CONTRACTS AND APPROVAL OF 2000/01 ANNUAL GOAL

WHEREAS, on July 12, 1983, the City Council adopted a policy statement expressing the City's commitment to the Minority Business Program for federal aid projects and, on December 1, 1987, the City Council adopted an amendment to the policy statement, which established a single Disadvantaged Business Enterprise (DBE) goal for federally-funded contracts that included both minority and women-owned businesses; and

WHEREAS, new federal regulations governing the DBE program require that each City adopt a new DBE Program and 2000/01 annual goal based on new guidelines and staff believes that it would be reasonable to assume that a DBE participation of 14 percent could be achieved on the 2000/01 federally-funded projects; and

WHEREAS, as stated in the draft DBE Program (a copy of which is on file in the City Clerk's office), the policy of the City is to ensure that DBEs have an equal opportunity to receive and participate in federally-funded projects; and

WHEREAS, a public notice stating the annual goal, the policies and inviting comments was posted on January 17, 2001, published in the Daily Review January 23, 2001, and distributed to DBE and WBE contractors' clearinghouses, and no specific comments have been received.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Hayward does hereby adopt the new Disadvantaged Business Enterprise Program for federally-funded public works contracts and approves the 2000/01 annual goal referenced and contained in the Staff Report.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2001

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward